House of Representatives

File No. 782

General Assembly

January Session, 2017

(Reprint of File No. 277)

House Bill No. 5140
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 22, 2017

AN ACT CONCERNING REIMBURSEMENTS TO HEALTH CARE PROVIDERS FOR SUBSTANCE ABUSE SERVICES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 38a-488a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2018*):

(a) For the purposes of this section: (1) "Mental or nervous conditions" means mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders". "Mental or nervous conditions" does not include (A) intellectual disabilities, (B) specific learning disorders, (C) motor disorders, (D) communication disorders, (E) caffeine-related disorders, (F) relational problems, and (G) other conditions that may be a focus of clinical attention, that are not otherwise defined as mental disorders in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders"; (2) "benefits payable" means the usual, customary and reasonable charges for treatment deemed necessary

under generally accepted medical standards, except that in the case of a managed care plan, as defined in section 38a-478, "benefits payable" means the payments agreed upon in the contract between a managed care organization, as defined in section 38a-478, and a provider, as defined in section 38a-478; (3) "acute treatment services" means twenty-four-hour medically supervised treatment for a substance use disorder, that is provided in a medically managed or medically monitored inpatient facility; and (4) "clinical stabilization services" means twenty-four-hour clinically managed postdetoxification treatment, including, but not limited to, relapse prevention, family outreach, aftercare planning and addiction education and counseling.

(b) Each individual health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 delivered, issued for delivery, renewed, amended or continued in this state shall provide benefits for the diagnosis and treatment of mental or nervous conditions. Benefits payable include, but need not be limited to:

(1) General inpatient hospitalization, including in state-operated facilities;

(2) Medically necessary acute treatment services and medically necessary clinical stabilization services;

(3) General hospital outpatient services, including at state-operated facilities;

(4) Psychiatric inpatient hospitalization, including in state-operated facilities;

(5) Psychiatric outpatient hospital services, including at state-operated facilities;

(6) Intensive outpatient services, including at state-operated facilities;

(7) Partial hospitalization, including at state-operated facilities;

(8) Evidence-based maternal, infant and early childhood home visitation services, as described in Section 2951 of the Patient Protection and Affordable Care Act, P.L. 111-148, as amended from time to time, that are designed to improve health outcomes for pregnant women, postpartum mothers and newborns and children, including, but not limited to, for maternal substance use disorders or depression and relationship-focused interventions for children with mental or nervous conditions or substance use disorders;

(9) Intensive, home-based services designed to address specific mental or nervous conditions in a child;

(10) Evidence-based family-focused therapy that specializes in the treatment of juvenile substance use disorders;

(11) Short-term family therapy intervention;

(12) Nonhospital inpatient detoxification;

(13) Medically monitored detoxification;

(14) Ambulatory detoxification;

(15) Inpatient services at psychiatric residential treatment facilities;

(16) Rehabilitation services provided in residential treatment facilities, general hospitals, psychiatric hospitals or psychiatric facilities;

(17) Observation beds in acute hospital settings;

(18) Psychological and neuropsychological testing conducted by an appropriately licensed health care provider;

(19) Trauma screening conducted by a licensed behavioral health professional;

(20) Depression screening, including maternal depression screening, conducted by a licensed behavioral health professional;

(21) Substance use screening conducted by a licensed behavioral health professional;

(22) Intensive, family-based and community-based treatment programs that focus on addressing environmental systems that impact chronic and violent juvenile offenders;

(23) Other home-based therapeutic interventions for children;

(24) Chemical maintenance treatment, as defined in section 19a-495-570 of the regulations of Connecticut state agencies; and

(25) Extended day treatment programs, as described in section 17a-22.

(c) No such policy shall establish any terms, conditions or benefits that place a greater financial burden on an insured for access to diagnosis or treatment of mental or nervous conditions than for diagnosis or treatment of medical, surgical or other physical health conditions, or prohibit an insured from obtaining or a health care provider from being reimbursed for multiple screening services as part of a single-day visit to a health care provider or a multicare institution, as defined in section 19a-490.

(d) In the case of benefits payable for the services of a licensed physician, such benefits shall be payable for the same services when such services are lawfully rendered by a psychologist licensed under the provisions of chapter 383 or by such a licensed psychologist in a licensed hospital or clinic.

(e) In the case of benefits payable for the services of a licensed physician or psychologist, such benefits shall be payable for the same services when such services are rendered by:

(1) A clinical social worker who is licensed under the provisions of chapter 383b and who has passed the clinical examination of the American Association of State Social Work Boards and has completed at least two thousand hours of post-master's social work experience in

a nonprofit agency qualifying as a tax-exempt organization under Section 501(c) of the Internal Revenue Code of 1986 or any subsequent corresponding internal revenue code of the United States, as from time to time amended, in a municipal, state or federal agency or in an institution licensed by the Department of Public Health under section 19a-490;

(2) A social worker who was certified as an independent social worker under the provisions of chapter 383b prior to October 1, 1990;

(3) A licensed marital and family therapist who has completed at least two thousand hours of post-master's marriage and family therapy work experience in a nonprofit agency qualifying as a tax-exempt organization under Section 501(c) of the Internal Revenue Code of 1986 or any subsequent corresponding internal revenue code of the United States, as from time to time amended, in a municipal, state or federal agency or in an institution licensed by the Department of Public Health under section 19a-490;

(4) A marital and family therapist who was certified under the provisions of chapter 383a prior to October 1, 1992;

(5) A licensed alcohol and drug counselor, as defined in section 20-74s, or a certified alcohol and drug counselor, as defined in section 20-74s;

(6) A licensed professional counselor; or

(7) An advanced practice registered nurse licensed under chapter 378.

(f) (1) In the case of benefits payable for the services of a licensed physician, such benefits shall be payable for (A) services rendered in a child guidance clinic or residential treatment facility by a person with a master's degree in social work or by a person with a master's degree in marriage and family therapy under the supervision of a psychiatrist, physician, licensed marital and family therapist, or licensed clinical

social worker who is eligible for reimbursement under subdivisions (1) to (4), inclusive, of subsection (e) of this section; (B) services rendered in a residential treatment facility by a licensed or certified alcohol and drug counselor who is eligible for reimbursement under subdivision (5) of subsection (e) of this section; or (C) services rendered in a residential treatment facility by a licensed professional counselor who is eligible for reimbursement under subdivision (6) of subsection (e) of this section.

(2) In the case of benefits payable for the services of a licensed psychologist under subsection (e) of this section, such benefits shall be payable for (A) services rendered in a child guidance clinic or residential treatment facility by a person with a master's degree in social work or by a person with a master's degree in marriage and family therapy under the supervision of such licensed psychologist, licensed marital and family therapist, or licensed clinical social worker who is eligible for reimbursement under subdivisions (1) to (4), inclusive, of subsection (e) of this section; (B) services rendered in a residential treatment facility by a licensed or certified alcohol and drug counselor who is eligible for reimbursement under subdivision (5) of subsection (e) of this section; or (C) services rendered in a residential treatment facility by a licensed professional counselor who is eligible for reimbursement under subdivision (6) of subsection (e) of this section.

(g) In the case of benefits payable for the service of a licensed physician practicing as a psychiatrist or a licensed psychologist, under subsection (e) of this section, such benefits shall be payable for outpatient services rendered (1) in a nonprofit community mental health center, as defined by the Department of Mental Health and Addiction Services, in a nonprofit licensed adult psychiatric clinic operated by an accredited hospital or in a residential treatment facility; (2) under the supervision of a licensed physician practicing as a psychiatrist, a licensed psychologist, a licensed marital and family therapist, a licensed clinical social worker, a licensed or certified alcohol and drug counselor or a licensed professional counselor who is

eligible for reimbursement under subdivisions (1) to (6), inclusive, of subsection (e) of this section; and (3) within the scope of the license issued to the center or clinic by the Department of Public Health or to the residential treatment facility by the Department of Children and Families.

(h) Except in the case of emergency services or in the case of services for which an individual has been referred by a physician affiliated with a health care center, nothing in this section shall be construed to require a health care center to provide benefits under this section through facilities that are not affiliated with the health care center.

(i) In the case of any person admitted to a state institution or facility administered by the Department of Mental Health and Addiction Services, Department of Public Health, Department of Children and Families or the Department of Developmental Services, the state shall have a lien upon the proceeds of any coverage available to such person or a legally liable relative of such person under the terms of this section, to the extent of the per capita cost of such person's care. Except in the case of emergency services, the provisions of this subsection shall not apply to coverage provided under a managed care plan, as defined in section 38a-478.

(j) Reimbursement for covered services rendered in this state by an out-of-network health care provider for the diagnosis or treatment of a substance use disorder shall be paid under the insured's individual health insurance policy directly to the provider if the provider is otherwise eligible for reimbursement for such services. The insured who received such services shall be deemed to have made an assignment to such provider of such insured's coverage reimbursement benefits and other rights under the policy. In no event shall such provider bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from or have any recourse against the insured for such services, except that such provider may collect any copayments, deductibles or other out-of-pocket expenses that the insured is required to pay under the policy.

Sec. 2. Section 38a-514 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2018*):

(a) For the purposes of this section: (1) "Mental or nervous conditions" means mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders". "Mental or nervous conditions" does not include (A) intellectual disabilities, (B) specific learning disorders, (C) motor disorders, (D) communication disorders, (E) caffeine-related disorders, (F) relational problems, and (G) other conditions that may be a focus of clinical attention, that are not otherwise defined as mental disorders in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders"; (2) "benefits payable" means the usual, customary and reasonable charges for treatment deemed necessary under generally accepted medical standards, except that in the case of a managed care plan, as defined in section 38a-478, "benefits payable" means the payments agreed upon in the contract between a managed care organization, as defined in section 38a-478, and a provider, as defined in section 38a-478; (3) "acute treatment services" means twenty-four-hour medically supervised treatment for a substance use disorder, that is provided in a medically managed or medically monitored inpatient facility; and (4) "clinical stabilization services" means twenty-four-hour clinically managed postdetoxification treatment, including, but not limited to, relapse prevention, family outreach, aftercare planning and addiction education and counseling.

(b) Except as provided in subsection (j) of this section, each group health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 delivered, issued for delivery, renewed, amended or continued in this state shall provide benefits for the diagnosis and treatment of mental or nervous conditions. Benefits payable include, but need not be limited to:

(1) General inpatient hospitalization, including in state-operated facilities;

(2) Medically necessary acute treatment services and medically necessary clinical stabilization services;

(3) General hospital outpatient services, including at state-operated facilities;

(4) Psychiatric inpatient hospitalization, including in state-operated facilities;

(5) Psychiatric outpatient hospital services, including at state-operated facilities;

(6) Intensive outpatient services, including at state-operated facilities;

(7) Partial hospitalization, including at state-operated facilities;

(8) Evidence-based maternal, infant and early childhood home visitation services, as described in Section 2951 of the Patient Protection and Affordable Care Act, P.L. 111-148, as amended from time to time, that are designed to improve health outcomes for pregnant women, postpartum mothers and newborns and children, including, but not limited to, for maternal substance use disorders or depression and relationship-focused interventions for children with mental or nervous conditions or substance use disorders;

(9) Intensive, home-based services designed to address specific mental or nervous conditions in a child;

(10) Evidence-based family-focused therapy that specializes in the treatment of juvenile substance use disorders;

(11) Short-term family therapy intervention;

(12) Nonhospital inpatient detoxification;

(13) Medically monitored detoxification;

(14) Ambulatory detoxification;

(15) Inpatient services at psychiatric residential treatment facilities;

(16) Rehabilitation services provided in residential treatment facilities, general hospitals, psychiatric hospitals or psychiatric facilities;

(17) Observation beds in acute hospital settings;

(18) Psychological and neuropsychological testing conducted by an appropriately licensed health care provider;

(19) Trauma screening conducted by a licensed behavioral health professional;

(20) Depression screening, including maternal depression screening, conducted by a licensed behavioral health professional;

(21) Substance use screening conducted by a licensed behavioral health professional;

(22) Intensive, family-based and community-based treatment programs that focus on addressing environmental systems that impact chronic and violent juvenile offenders;

(23) Other home-based therapeutic interventions for children;

(24) Chemical maintenance treatment, as defined in section 19a-495-570 of the regulations of Connecticut state agencies; and

(25) Extended day treatment programs, as described in section 17a-22.

(c) No such group policy shall establish any terms, conditions or benefits that place a greater financial burden on an insured for access to diagnosis or treatment of mental or nervous conditions than for diagnosis or treatment of medical, surgical or other physical health conditions, or prohibit an insured from obtaining or a health care provider from being reimbursed for multiple screening services as part

of a single-day visit to a health care provider or a multicare institution, as defined in section 19a-490.

(d) In the case of benefits payable for the services of a licensed physician, such benefits shall be payable for the same services when such services are lawfully rendered by a psychologist licensed under the provisions of chapter 383 or by such a licensed psychologist in a licensed hospital or clinic.

(e) In the case of benefits payable for the services of a licensed physician or psychologist, such benefits shall be payable for the same services when such services are rendered by:

(1) A clinical social worker who is licensed under the provisions of chapter 383b and who has passed the clinical examination of the American Association of State Social Work Boards and has completed at least two thousand hours of post-master's social work experience in a nonprofit agency qualifying as a tax-exempt organization under Section 501(c) of the Internal Revenue Code of 1986 or any subsequent corresponding internal revenue code of the United States, as from time to time amended, in a municipal, state or federal agency or in an institution licensed by the Department of Public Health under section 19a-490;

(2) A social worker who was certified as an independent social worker under the provisions of chapter 383b prior to October 1, 1990;

(3) A licensed marital and family therapist who has completed at least two thousand hours of post-master's marriage and family therapy work experience in a nonprofit agency qualifying as a tax-exempt organization under Section 501(c) of the Internal Revenue Code of 1986 or any subsequent corresponding internal revenue code of the United States, as from time to time amended, in a municipal, state or federal agency or in an institution licensed by the Department of Public Health under section 19a-490;

(4) A marital and family therapist who was certified under the

provisions of chapter 383a prior to October 1, 1992;

(5) A licensed alcohol and drug counselor, as defined in section 20-74s, or a certified alcohol and drug counselor, as defined in section 20-74s;

(6) A licensed professional counselor; or

(7) An advanced practice registered nurse licensed under chapter 378.

(f) (1) In the case of benefits payable for the services of a licensed physician, such benefits shall be payable for (A) services rendered in a child guidance clinic or residential treatment facility by a person with a master's degree in social work or by a person with a master's degree in marriage and family therapy under the supervision of a psychiatrist, physician, licensed marital and family therapist or licensed clinical social worker who is eligible for reimbursement under subdivisions (1) to (4), inclusive, of subsection (e) of this section; (B) services rendered in a residential treatment facility by a licensed or certified alcohol and drug counselor who is eligible for reimbursement under subdivision (5) of subsection (e) of this section; or (C) services rendered in a residential treatment facility by a licensed professional counselor who is eligible for reimbursement under subdivision (6) of subsection (e) of this section.

(2) In the case of benefits payable for the services of a licensed psychologist under subsection (e) of this section, such benefits shall be payable for (A) services rendered in a child guidance clinic or residential treatment facility by a person with a master's degree in social work or by a person with a master's degree in marriage and family therapy under the supervision of such licensed psychologist, licensed marital and family therapist or licensed clinical social worker who is eligible for reimbursement under subdivisions (1) to (4), inclusive, of subsection (e) of this section; (B) services rendered in a residential treatment facility by a licensed or certified alcohol and drug counselor who is eligible for reimbursement under subdivision (5) of

subsection (e) of this section; or (C) services rendered in a residential treatment facility by a licensed professional counselor who is eligible for reimbursement under subdivision (6) of subsection (e) of this section.

(g) In the case of benefits payable for the service of a licensed physician practicing as a psychiatrist or a licensed psychologist, under subsection (e) of this section, such benefits shall be payable for outpatient services rendered (1) in a nonprofit community mental health center, as defined by the Department of Mental Health and Addiction Services, in a nonprofit licensed adult psychiatric clinic operated by an accredited hospital or in a residential treatment facility; (2) under the supervision of a licensed physician practicing as a psychiatrist, a licensed psychologist, a licensed marital and family therapist, a licensed clinical social worker, a licensed or certified alcohol and drug counselor, or a licensed professional counselor who is eligible for reimbursement under subdivisions (1) to (6), inclusive, of subsection (e) of this section; and (3) within the scope of the license issued to the center or clinic by the Department of Public Health or to the residential treatment facility by the Department of Children and Families.

(h) Except in the case of emergency services or in the case of services for which an individual has been referred by a physician affiliated with a health care center, nothing in this section shall be construed to require a health care center to provide benefits under this section through facilities that are not affiliated with the health care center.

(i) In the case of any person admitted to a state institution or facility administered by the Department of Mental Health and Addiction Services, Department of Public Health, Department of Children and Families or the Department of Developmental Services, the state shall have a lien upon the proceeds of any coverage available to such person or a legally liable relative of such person under the terms of this section, to the extent of the per capita cost of such person's care. Except in the case of emergency services the provisions of this subsection shall

not apply to coverage provided under a managed care plan, as defined in section 38a-478.

(j) A group health insurance policy may exclude the benefits required by this section if such benefits are included in a separate policy issued to the same group by an insurance company, health care center, hospital service corporation, medical service corporation or fraternal benefit society. Such separate policy, which shall include the benefits required by this section and the benefits required by section 38a-533, shall not be required to include any other benefits mandated by this title.

(k) In the case of benefits based upon confinement in a residential treatment facility, such benefits shall be payable in situations in which the insured has a serious mental or nervous condition that substantially impairs the insured's thoughts, perception of reality, emotional process or judgment or grossly impairs the behavior of the insured, and, upon an assessment of the insured by a physician, psychiatrist, psychologist or clinical social worker, cannot appropriately, safely or effectively be treated in an acute care, partial hospitalization, intensive outpatient or outpatient setting.

(l) The services rendered for which benefits are to be paid for confinement in a residential treatment facility shall be based on an individual treatment plan. For purposes of this section, the term "individual treatment plan" means a treatment plan prescribed by a physician with specific attainable goals and objectives appropriate to both the patient and the treatment modality of the program.

(m) Reimbursement for covered services rendered in this state by an out-of-network health care provider for the diagnosis or treatment of a substance use disorder shall be paid under the insured's group health insurance policy directly to the provider if the provider is otherwise eligible for reimbursement for such services. The insured who received such services shall be deemed to have made an assignment to such provider of such insured's coverage reimbursement benefits and other

rights under the policy. In no event shall such provider bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from or have any recourse against the insured for such services, except that such provider may collect any copayments, deductibles or other out-of-pocket expenses that the insured is required to pay under the policy.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*January 1, 2018*	38a-488a
Sec. 2	*January 1, 2018*	38a-514

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill is not anticipated to result in a fiscal impact to the state or municipalities as the bill does not change the scope of covered benefits or member cost sharing required by state or municipal health plans. The bill requires health plans to reimburse out-of-network providers directly for services provided in the state for the diagnosis or treatment of a substance use disorder. In addition, the bill allows the provider to collect any copayments, deductibles, or other out-of-pocket expenses that the insured is required to pay under the terms of the policy.

For the state health plan, the member is responsible for the out-of-network deductible as well as coinsurance of approximately 20%. In addition, the member is responsible for 100% of any costs the provider bills over the maximum allowable cost.[1] These terms are unchanged by the bill. The bill does not appear to prohibit the provider from balance billing the member for any costs not covered by the plan.

House "A" limits the reimbursement requirements to out-of-network providers for covered services rendered in the state. In addition, the amendment prohibits a provider from requiring a deposit or requiring any other reimbursement from the insured other than what is required under the terms of the insured's policy. The

[1] *Source: State of Connecticut Health Benefit Plan Document, Updated as of September 2016.*

amendment does not alter the fiscal impact of the underlying bill.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis

HB 5140 (as amended by House "A")*

AN ACT CONCERNING REIMBURSEMENTS TO HEALTH CARE PROVIDERS FOR SUBSTANCE ABUSE SERVICES.

SUMMARY

This bill requires certain health insurance policies to pay directly any out-of-network health care providers eligible for reimbursement for the diagnosis or treatment rendered in Connecticut for a substance use disorder. It does so by deeming that an insured receiving such diagnosis or treatment has assigned his or her reimbursement benefits and other rights under the health insurance policy to the provider. (The bill does not clarify what "other rights" entails.)

Under the bill, providers may collect from the insured any copayment, deductible, and other out-of-pocket costs due under the policy but are prohibited from otherwise billing; charging; collecting a deposit from; seeking compensation, remuneration, or reimbursement from; or having any recourse against the insured for the services.

The bill applies to individual and group health insurance policies issued, delivered, renewed, amended, or continued in Connecticut that cover (1) basic hospital expenses, (2) basic medical-surgical expenses, (3) major medical expenses, or (4) hospital or medical services, including those provided through an HMO. (Due to the federal Employee Retirement Income Security Act, state insurance mandates do not apply to self-insured benefit plans.)

By law, these health insurance policies must cover the diagnosis and treatment of mental or nervous conditions, including substance use disorders, provided by (1) a licensed physician, advanced practice registered nurse, psychologist, clinical social worker, marital and

family therapist, or professional counselor, (2) certain certified marital and family therapists or independent social workers, or (3) licensed or certified alcohol and drug counselors.

*House Amendment "A" limits the direct payment provisions to out-of-network health care providers, rather than any health care provider, and adds the provisions authorizing such providers to collect copayments and other out-of-pocket costs and prohibiting them from collecting any other remuneration.

EFFECTIVE DATE: January 1, 2018

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable
Yea 21 Nay 0 (03/15/2017)